

REMARKS/ARGUMENTS

Applicant responds herein to the Final Office Action dated October 17, 2008.

Claims 13-19 are in the application, with claims 1, 2 and 9-12 having been cancelled, and claims 3-8 having been withdrawn.

The rejection of claim 13 under 35 USC 112, second paragraph, as being indefinite, has been obviated by deletion of the redundant word "item", in conformity with similar language in claim 14, as suggested by the Examiner.

Claims 13-19 were rejected under 35 USC 103(a) as being unpatentable over McPhail (WO 00/59553) in view of Helmut Herz (English translation of DE 197 24 133) and further in view of McNamara (US Patent No. 2,214,425).

The Examiner noted, in the Response to Arguments, that the arguments made by Applicant with respect to the original rejection of claims 1-2 and 9-12, based on the McPhail and Helmut references, were persuasive. The Examiner has however made a new ground of rejection based on the McPhail and Helmut references in view of McNamara stating that:

"... The newly applied McNamara reference discloses an apparatus for warming and sterilizing items with steam having drawers with branch pipes. In addition, McNamara teaches that in certain embodiments, the valve means is omitted from unit 2 of the cabinet. As such one of ordinary skill in the art would recognize that upon opening drawer, steam flows through perforations) (sic) while the drawer is in open position outside the cabinet to warm the items..."

This teaching of the McNamara reference was cited as a disclosure which teaches the supplying of fluid outside the chamber (as required by independent claims 13 and 14) but which both the McPhail and Helmut references fail to teach (as specifically noted by the Examiner).

In response thereto it is respectfully submitted that the Examiner has erred. McNamara does not disclose any supplying of fluid outside of the chamber. McNamara makes no explicit statement of a fluid being supplied outside of the heating compartments. Instead, the Examiner assumes that with removal of the valve 29 in compartment 2 (as suggested by McNamara at page 2, lines 57-60) steam is always supplied to compartment 2, and then to open drawer 14 via perforations, therefore meeting the structural limitations of claims 13 and 14. In fact, steam in compartment 2 never reaches drawer 14. Since compartment 2 is a drawer which slides open in both the forward and rear directions (Figures 2 and 4) only this compartment is provided with an

intermediate member 15 which is specifically described at page 1, line 50 through page 2, line 8 as closing openings formed by sliding the shelf 14 forwardly or backwardly. As clearly seen in Figure 2, intermediate member 15 closes off the entire opening formed in compartment 2, including the end of shelf 14. No steam exits compartment 2 and this explains why the valve 29 is optional with respect to such compartment. Since no steam can exit from the compartments of McNamara (either because of valves 29 or intermediate closure member 15), McNamara cannot provide a teaching of the supplying of fluid outside of the chamber as claimed in claims 13 and 14. It is this very non-existent teaching which is the basis for the present rejection.

Furthermore, even if steam is supplied outside of the chamber as contended by the Examiner, there is no "fluid supply member configured to cool the sterilized item with cooling fluid" as required by claim 13. Steam is not a cooling fluid. Water container 6 in McNamara is not used to provide a cooling fluid but rather as a source for the steam with burner 6.

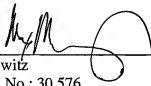
With respect to claim 14 it is submitted that neither McNamara nor Helmut disclose, teach or even suggest a container as claimed, having a fluid supply part, when placed on the moving means, and moved into and outside of the compartment.

Given that, in fact, the references do not teach positively recited claim elements, claims 13 and 14, and claims 15-19 dependent thereon, are patentable over the cited prior art and are in condition for allowance and such favorable action is accordingly respectfully solicited.

Accordingly, the Examiner is respectfully requested to reconsider the application, allow the claims and pass this case to issue.

THIS CORRESPONDENCE IS
BEING SUBMITTED
ELECTRONICALLY THROUGH
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Respectfully submitted,



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